REMARKS

The Office Action mailed March 6, 2007 has been carefully considered.

Claims 1-21 are pending and stand rejected.

Claims 1, 8 and 15 have been amended.

Rejection under 35 USC 101

The Examiner rejected claims 1-21 under 35 USC 101 as not resulting in tangible output. In maintaining the rejection under 35 USC 101, the Examiner states that "the claimed subject matter provides for proposing a configuration of said one or more data systems that would sustain the simulated performance at a given level. This produced result remains in the abstract and, thus, fails to achieve the required status of having real world value." (see page 3, line 6-8, OA).

Applicant traverses the reason for the rejection but has amended the claims to state the invention in a clearer manner. The independent claims have been amended to recite ", wherein said level is associated with at least one element selected from the group consisting of: a required utilization, a response time, and a workload" and "altering a configuration of at least one of said one or more data storage systems to sustain the simulated performance at a given level, wherein said altering includes adding at least one additional data storage system to said one or more data storage systems causing the excessive level of performance." No new matter has been added. Support may be page 24, lines 4-8, ("When considering utilizations the following points are factored by the tool and the user may also consider when using the tool. Consider the following when analyzing utilizations. Loads and utilizations do not necessarily behave empirically in a

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linear manner. For example, if one measures a 60% utilization for a particular workload, adding 10% to this workload may result in a 90% utilization, not 70%, as one might expect.") and lines page 31, lines 4-14 ("the tool would not only indicate where a performance problem lies, but would also suggest a configuration that would resolve the issue by proposing a configuration that would sustain the load for a given required utilization, response time, or workload. For example the tool could indicate that the back-end CPUs are highly utilized, causing some performance impact to the host applications. A trained user would know he needs to add more back-end CPUs and spread the workload across all the back-end, however, he would also have to iterate a number of different configurations until he would know how many back-end CPUs are required to sustain the workload. Implementing the present invention would be able to suggest the right number of back-end CPUs, which will guarantee a specified required utilization of the system.").

With regard to the rejection of the claims, it is respectfully submitted that the independent claims, as amended, provide a tangible and useful result in altering the configuration of at least one or more of the data storage systems by adding at least one additions data storage system to maintain simulated performance below a level.

For at least this reason the rejection of the claim has been overcome and applicant respectfully requests that the rejection be withdrawn.

Rejection under 35 USC 102

The Examiner has rejected claims 1-21 as being anticipated, pursuant to 35 USC 102(b), by Hoffecker (US Patent No. 5,325,505).

Applicant traverses the reason for rejecting the claims in view of the amendments made thereto as described previously.

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Hoffecker, as characterized previously, describes an intelligent storage manager including a number of data bases which are used by the expert system to manage the computer system data storage devices. Hoffecker discloses the use of models to determine data relating to the operation of the data storage devices. The models are used to assist in the identification of conflicts and to predict the effect of proposed conflict solutions.

However, Hoffecker fails to disclose the determination of a performance of the data systems components and the system composed of the data system components, determine whether a level of performance of the data systems or the system exceed respective levels of performance and <u>altering a configuration of at least one of said one or more data storage systems</u> <u>to sustain the simulated performance at a given level by adding at least one additional data</u> <u>storage system to the data storage system causing the excessive level of performance</u>, as is recited in the claims.

Rather Hoffecker teaches that data conflicts are resolved by providing alternate memory storage locations of data storage. See col. 3, lines 35-45, "[t]he expert system identifies the performance conflict as well as the data sets stored on these data sets stored on these data storage devices related to this conflict. Once the data sets and user workload involved in the performance conflict are identified, the expert system determines alternative memory storage locations for these data sets and activates various software routines to transport these conflict data sets to the alternative data storage locations... By performing the conflict identification and resolution on a dynamic real time basis, the data storage devices of the computer system are operating in a more efficient manner."

A claim is anticipated if each and every element is recited in one piece of prior.

Hoffecker can not be said to anticipate the present invention, as recited in claims 1, 8 and 15, as Hoffecker fails to disclose altering the configuration of the one or more data storage systems.

For at least this reason the rejection of the claim has been overcome and applicant respectfully requests that the rejection be withdrawn.

With regard to the remaining claims, these claims depend from one of the independent claims and, hence, are allowable by virtue of their dependency upon an allowable independent claim.
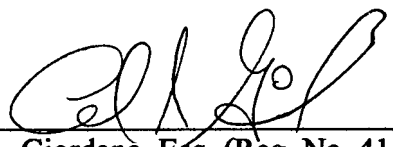
In view of the foregoing, the applicant believes that the application is in condition for allowance and respectfully request favorable reconsideration.

In the event the Examiner deems personal contact desirable in the disposition of this case, the Examiner is invited to call the undersigned attorney at (914) 798-8505.

Respectfully submitted,

Dated: 5/7/07

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